

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

LENARD JOE PARKER SR. §
v. § CIVIL ACTION NO. 9:07cv178
DIRECTOR, TDCJ-CID §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Lenard Joe Parker Sr., proceeding *pro se*, filed this application for the writ of habeas corpus complaining of the legality of his conviction. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Parker pleaded guilty to and was convicted of indecency with a child on January 24, 2005, receiving a sentence of 18 years in prison. He did not take a direct appeal, but sought habeas corpus relief in state court on February 15, 2007. This application was denied on March 14, 2007, and Parker filed his federal habeas petition on July 2, 2007.

The Magistrate Judge ordered the Respondent to answer Parker's petition, and the Respondent filed a motion to dismiss based on the statute of limitations. Parker did not file a response to this motion.

After review of the pleadings, the Magistrate Judge issued a Report on November 1, 2007, recommending that the motion to dismiss be granted and that the petition be dismissed with prejudice. The Magistrate Judge also recommended that Parker be denied a certificate of appealability *sua sponte*. Parker received a copy of the Magistrate Judge's Report on November 7, 2007, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district

judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. It is further

ORDERED that the Petitioner Lenard Parker is hereby DENIED a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So **ORDERED** and **SIGNED** this **30** day of **November, 2007**.



Ron Clark, United States District Judge